IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2644 OF 2005

Shri Charanjit Singh Nandrayog .. Petitioner.
V/s.
The Commissioner of Customs
(Import), Mumbai & Ors. .. Respondents.

Mr.Sachwani i/b. M/s.Advani, Sachwani & Heera for the petitioner.

Mr.S.M. Shah with Mr.Y.S. Bhate for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH APRIL, 2005.

P.C. :

1. Heard. Rule, Returnable forthwith. Heard finally by consent of the parties.

2. This petition is directed against the order dated January 19, 2005 passed by the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai directing the petitioner-appellant before the Tribunal to pre-deposit 50% of the penalty amount with direction that subject to such pre-deposit being made and compliance reported, the pre-deposit of the balance amount shall be waived during the pendency of the appeal.

3. The learned counsel appearing for the

petitioner while challenging the order contended that the order does not contain any reason in support of the conclusion recorded in the impugned order.

4. The learned counsel appearing for the Revenue does not dispute this position. However, he submits that since no reasons are to be found in the order, the impugned order be set aside by consent of the parties and the matter be remanded back to the Tribunal for consideration afresh following principles of natural justice.

5. Needless to mention that in absence of the reasons in the order, it is not possible for the higher Court to read the mind of the Judge passing the impugned order. Non-recording of reasons itself is a breach of principles of natural justice.

6. In the above view of the matter, the impugned order is unsustainable. The same is quashed and set aside. Rule is made absolute in terms of this order with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)